

EXHIBIT A

FILED
DEBRA VAN PELT
ISLAND COUNTY CLERK

2015 SEP 10 PM 2:49

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF ISLAND

10 JAMES BAILEY,

11 Plaintiff,

12 v.

13 CITY OF OAK HARBOR, a Municipal
14 Entity and Political Subdivision of the
15 State of Washington; the CITY OF OAK
16 HARBOR POLICE DEPARTMENT, a
17 Municipal Corporation; EDGAR GREEN
18 and JANE DOE GREEN, husband and
19 wife, individually and in Edgar Green's
20 Official Capacity as Chief of Police; and
21 TERI GARDNER, individually and in her
22 Official Capacity as a Captain in the Oak
23 Harbor Police Department,

24 Defendants.

15 2 00529 9
NO.

25 COMPLAINT FOR DAMAGES
(FALSE ARREST AND
DEFAMATION)

26 COMES NOW the Plaintiff, James Bailey, and alleges as follows:

27
28 I. JURISDICTION AND VENUE

29
30 1.1. At all times material hereto, the actions of the Defendants complained of herein
31 occurred in Island County, Washington.

1 1.2. This court has jurisdiction over the subject matter and personal jurisdiction over
2 the parties to this proceeding. Venue is proper in Island County as at least one of the
3 Defendants is a resident of Island County, Washington.
4

5 1.3. On February 20, 2015, prior to the institution of this action, Plaintiff, James
6 Bailey, filed a claim for damages with the City of Oak Harbor, pursuant to RCW 4.96.020.
7 More than 60 days have elapsed since the filing of Plaintiff's claim as required by RCW
8 4.96.020. The City of Oak Harbor failed to respond in any manner to the Plaintiff's claim.
9

10 II. PARTIES

11 2.1. At all times material hereto, Plaintiff, James Bailey, was and is a resident of
12 Island County, Washington. Plaintiff was the victim of an unlawful and unconstitutional
13 arrest in violation of his Fourth and Fourteenth Amendment rights, false arrest, false
14 imprisonment and defamation.

15 2.2. Defendant, City of Oak Harbor, is a municipal corporation within Island County,
16 State of Washington.

17 2.3. Defendant, City of Oak Harbor Police Department ("OHPD") is a governmental
18 entity organized and functioning under the laws of Washington and is an agency of
19 Defendant, City of Oak Harbor.

20 2.4. Defendant, Edgar Green is an individual who is employed, and at all times
21 material hereto was employed, by the City of Oak Harbor as the Chief of Police. Based
22 on information and belief, Defendant Jane Doe Green is the spouse of Edgar Green and
23 all acts complained of herein were committed by Edgar Green as an individual and as a
24 member of his marital community. Defendants Green are residents of Island County,
25 Washington. All of Edgar Green's actions in this case took place within the course and
26 scope of his duties as the City of Oak Harbor police chief. Defendant Edgar and Jane
27 Doe Green are being sued in their individual capacity and not merely in connection with
28 Edgar Green's employment with Defendant City of Oak Harbor.
29
30
31
32

1 2.5. Defendant, Teri Gardner ("Gardner"), is employed, and at all times material
2 hereto was employed, by the City of Oak Harbor as the police captain. Gardner is a
3 resident of Island County, Washington. All of Gardner's actions in this case were in the
4 course and scope of her duties as the City of Oak Harbor police captain. Defendant
5 Gardner is sued in her individual capacity and not merely in connection with Gardner's
6 employment with Defendant City of Oak Harbor.
7

8 2.6. This action is being brought pursuant to the Fourth and Fourteenth amendments
9 to the United States Constitution; Article 1, Section 7 of the Washington State
10 Constitution; 42 USC Sec. 1983; and Washington State law prohibiting false arrest, false
11 imprisonment, intentional infliction of emotional distress and defamation.
12

13 2.7. This action is further premised on Oak Harbor Police Department's Chief, Ed
14 Green, has ratified and encourages this illegal action under his direct supervision. Based
15 upon the Plaintiff's information and belief, the improper stop, detention, and
16 imprisonment of the Plaintiff was part of the pattern or practice of the City of Oak Harbor
17 Police Department.
18

19

20 III. PERTINENT FACTS

21 3.1. On or about August 6, 2014, Plaintiff, James Bailey ("Bailey") was driving his
22 vehicle in Oak Harbor, Washington when he observed another vehicle in the middle of
23 the roadway. The observed vehicle stopped and started at least three (3) times.
24

25 3.2. Bailey also observed what appeared to be a physical altercation occurring
26 between the male and female occupants of the stopped vehicle.
27

28 3.3. Bailey safely parked his vehicle and approached the driver's side of the
29 motionless vehicle where he saw the female driver being physically assaulted by the
30 male passenger, who was then striking her with his hand. Bailey attempted to separate
31 the two occupants of the vehicle by asking the male passenger to get out of the car.
32

1 3.4. An individual bystander, two or three houses away from the altercation, later
 2 identified as Christopher Kinkel, asked Bailey if he needed help. Bailey responded by
 3 asking Mr. Kinkel to call "9-1-1."

4 3.5. Mr. Kinkel arrived at Bailey's location and handed Bailey a cellular telephone
 5 which was already connected to the OHPD dispatcher. Bailey informed the ICOM
 6 dispatcher of his name and that he had witnessed a domestic violence altercation and
 7 provided the dispatcher the license plate of the involved vehicle.

8 3.6. Officers from the OHPD arrived at Bailey's location shortly after the call and
 9 began an investigation of the incident. Bailey remained at the scene and provided a
 10 written statement.

11 3.7. On or about September 10, 2014, at the direction of Defendants Green and
 12 Gardner, Detective Jim Hoagland of the OHPD contacted Bailey in the Oak Harbor
 13 Safeway (now Haggen's) parking lot when Bailey was preparing to go for a daily run.

14 3.8. Detective Hoagland asked to speak with Bailey about the domestic violence
 15 incident and Bailey complied with the Detective's request.

16 3.9. Immediately thereafter, in front of a large number of passers-by, Bailey was
 17 placed in handcuffs by another OHPD officer and was informed he was under arrest.
 18 Bailey was then placed in the back of a police patrol car and treated as a criminal
 19 suspect.

20 3.10. Bailey was advised that he was under arrest for Criminal Impersonation in the
 21 Second Degree, a gross misdemeanor, under RCW 9A.60.045.

22 3.11. At the time of Bailey's arrest, the OHPD had not obtained an arrest warrant
 23 from any court nor did any facts support those exceptions to the arrest warrant
 24 requirement described in RCW 10.31.100.

25 3.12. Bailey was transported to the Oak Harbor police station and placed in the
 26 "breathalyzer room" and was left there for an hour.

27 3.13. When an officer from the OHPD finally attended to Bailey, Bailey requested to
 28 speak with a lawyer. Instead of honoring Bailey's request, Bailey was placed in a holding

1 cell for another seven hours. Employees of the OHPD made no efforts to place Bailey
2 in touch with a lawyer despite his detention and clear request for counsel.

3 3.14. In connection with Bailey's arrest, officers from the OHPD impounded his
4 vehicle even though it was not the same vehicle he was driving at the time Bailey
5 witnessed the domestic violence incident. Upon searching Bailey's vehicle, police found
6 a forty year old, Radio Shack, police and fire radio scanner that Bailey uses in
7 connection with his part time job with Wallin Funeral Home.

8 3.15. While Bailey was still in custody, officers of the OHPD executed a search
9 warrant on Bailey's person, vehicle and home. During the search, the police ransacked
10 Bailey's home and removed items such as a barbershop men's chorus uniform that was
11 a "clown style" police uniform; and a thirty year old "light bar" that a former lieutenant
12 and Bailey used when they participated in parades to represent the police department's
13 DARE program.

14 3.16. After Bailey's illegal arrest and detention, the Oak Harbor Police Department,
15 through its police chief Edgar Green, issued a "press release" describing the City's
16 version of the August 6, 2014, events and Bailey's involvement. The press release
17 specifically stated that Bailey "identified himself as a retired police officer" and directed
18 an individual to call "9-1-1" because an "officer needed assistance". The press release
19 further stated that James Bailey may have benefitted financially by portraying himself as
20 a police officer for many years and requested that "victims" to come forward.

21 3.17. The story depicted by the OHPD and Edgar Green was broadcast on local and
22 national media outlets, including the Associated Press and FoxNews, subjecting the
23 Bailey to extreme embarrassment, humiliation and a loss of his reputation.

24 3.18. After the press release was issued, Bailey was contacted by telephone and at
25 his home by several news agencies for comment.

26 3.19. The OHPD's version of the incident, as described in the press release by Edgar
27 Green, was false and misleading subjecting Bailey to extreme embarrassment,
28 humiliation and loss of his reputation.

1 3.20. All actions of the officers of the OHPD described herein were done at the
2 request and with the supervision and direction of Defendant, Gardner.

3 3.21. Prior to the incident that gave rise to the Plaintiff's false arrest and
4 imprisonment, Defendant, Gardner had been attempting, without success, to acquire
5 evidence of criminal conduct on the part of Bailey similar to that for which he was falsely
6 arrested and accused in August of 2014.

7 3.22. Based on the actions and recommendations of the Defendants, the City of Oak
8 Harbor, through the City Attorney's office, issued a criminal citation to Plaintiff James
9 Bailey on September 10, 2014, in City of Oak Harbor Municipal under Court Cause No.
10 C67502. The City of Oak Harbor promptly dismissed the charges on September 16,
11 2014, stating that the case was still "under investigation".

12 3.23. No further action has been taken Defendants to prosecute this matter.

13

14 IV. STATEMENT OF DAMAGES

15

16 4.1. As a direct and proximate result of the intentional acts of Defendantss, Plaintiff
17 was deprived of his Fourth amendment rights, including deprivation of liberty, pain and
18 suffering, and injury, the nature and extent of which will be established at trial.

19

20 4.2. As a further, direct and proximate result of the intentional acts of Defendantss,
21 Plaintiff was required to retain legal counsel to protect and vindicate his rights in this
22 court, the actual amount and cost of those services to be established at the time of trial.
23 Bailey is entitled to be reimbursed for those costs and fees.

24

25 4.3. As a further, direct and proximate result of the intentional acts of Defendantss,
26 Plaintiff was unlawfully forced to endure several hours of imprisonment and then local,
27 regional and national scrutiny from the media, with a great deal of legal and societal
28 consequences and impact upon his person and reputation.

29

30 4.4. As a further, direct and proximate result of the intentional acts of Defendantss,
31 Plaintiff is entitled to financial compensation for the infringement of his constitutional

1 rights and the personal harm that the Defendantss inflicted upon him, and the chilling
2 effect Defendantss' actions had on the exercise of Plaintiff's constitutionally protected
3 rights.

4

5

6

7 V. CAUSES OF ACTION

8 A. Violation of Civil Rights: 42 USC 1983

9 5.1. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.

10 5.2. As set forth above, on or about September 10, 2014, Defendant Ed Green and
11 Defendant, Teri Gardner, acting under the color of the law, instructed subordinate
12 officers to unlawfully search and seize Plaintiff without probable cause and without a
13 warrant in violation of the Fourth and Fourteenth Amendments to the United States
14 Constitution and by 42 U.S.C. §1983.

15 5.3. At all times material hereto, Defendant Green and Defendant Gardner were
16 employees of the City of Oak Harbor and acting within the course and scope of their
17 employment and authority.

18 5.4. Because Defendant Green and Defendant Gardner were acting in furtherance
19 of and within the course and scope of their employment, Defendant City of Oak Harbor
20 is liable under the theory of *respondeat superior*.

21 5.5. As a direct and a proximate result of the Defendantss' conduct, the Plaintiff is
22 entitled to recover judgment herein, against the Defendantss, jointly and severally, in an
23 amount to be determined at trial.

24 B. Violation of Washington Constitution Art. 1 § 7

25 5.6. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.

26

1 5.7. As set forth above, on or about September 10, 2014, Defendant Green and
2 Defendant Gardner, acting under the color of the law, instructed subordinate officers to
3 unlawfully search and seize Plaintiff without probable cause and without a warrant in
4 violation of Plaintiff's right to freedom from unreasonable seizure as guaranteed by the
5 Washington Constitution Article 1, Section 7.
6

7 5.8. At all times material hereto, Defendant Green and Defendant Gardner were
8 employees of the City of Oak Harbor and acting within the course and scope of their
9 employment and authority.
10

11 5.9. Because Defendant Green and Defendant Gardner were acting in furtherance
12 of and within the course and scope of their employment, Defendant City of Oak Harbor
13 is liable under the theory of *respondeat superior*.
14

15 5.10. As a direct and a proximate result of the Defendants' conduct, the Plaintiff is
16 entitled to recover judgment herein, against the Defendants, jointly and severally, in an
17 amount to be determined at trial.
18

19 **C. False Arrest**
20

21 5.11. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.
22

23 5.12. Defendants detained and arrested Plaintiff for an alleged violation of the law
24 that Defendants knew or should have known that the Plaintiff, Bailey had not
25 committed.
26

27 5.13. There was no factual or legal basis for warrantless arrest and imprisonment
28 of Bailey under the facts known to the Oak Harbor Police Department.
29

30 5.14. Defendants' detention, seizure and arrest of Plaintiff without probable cause
31 or warrant, violated Plaintiff's rights under Article 1 of the Washington State
32 Constitution, Section 7.4, and further resulted in the malicious prosecution which
followed, and the resulting harm to Plaintiff caused as a result.

1 5.15. The conduct of Defendantss was willful, malicious, oppressive and/or
2 reckless, and was of such a nature that damages should be imposed an amount
3 commensurate with wrongful acts herein alleged.
4

5 5.16. As a direct and proximate result of the acts complained of herein, Plaintiff has
6 suffered general and special damages in amounts to be proven at the time of trial
7 herein and to be set by the court.
8

9 **D. False Imprisonment**

10 5.17. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.
11

12 5.18. As a result of the false arrest detailed above, Plaintiff was arrested, taken to
13 jail, and detained for hours without cause or justification.
14

15 5.19. Plaintiff was unjustly deprived of his liberty for that period of time and
16 subjected to abuses therein.
17

18 5.20. As a direct and proximate result of the acts complained of herein, Plaintiff has
19 suffered general and special damages in amounts to be proven at the time of trial
20 herein and to be set by the court.
21

22 **E. Defamation**

23 5.20. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.
24

25 5.21. The statements made by the Defendant and/or on behalf of Defendants by
26 Chief Edgar Green about Plaintiff in the aforementioned press release and in public,
27 were and are false.
28

29 5.22. The Defendants were negligent, reckless, malicious and/or acted intentionally
30 in making these defamatory statements.
31

32 5.23. The statements made by the Defendants were "published" by the Defendants
to persons other that Plaintiff.
33

1 5.24. As a direct and a proximate result of the Defendants's actions and conduct, the
2 Plaintiff, Bailey, is entitled to an award of damages, against the Defendantss, jointly and
3 severally, in amounts to be proven at the time of trial herein and to be set by the court.
4

5 **F. Defamation Per Se**

6 5.25. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.
7

8 5.26. The statements made on behalf of Defendant City of Oak Harbor and OHPD,
9 by Chief Edgar Green about Plaintiff were and are false and misleading.
10

11 5.27. The Defendants were negligent, reckless, malicious and/or intentional in
12 making these defamatory statements.
13

14 5.28. The statements made by the Defendants were published by the Defendants to
15 persons other that Plaintiff.
16

17 5.29. The statements exposed Plaintiff to hatred, harassment, contempt, ridicule or
18 obloquy, and deprived him of the benefit of public confidence or social intercourse.
19

20 5.30. As a direct and a proximate result of the Defendants's conduct, the Plaintiff is
21 entitled to recover judgment herein, against the Defendants, in amounts to be proven at
22 the time of trial herein and to be set by the court.
23

24 **G. Intentional Infliction of Emotional Distress/Outrage**
25

26 5.31. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.
27

28 5.32. Defendant Green's and Defendant Gardner's conduct towards Plaintiff is
29 extreme and outrageous, going beyond the bounds of common decency.
30

31 5.33. At all times material hereto, Defendants Green and Gardner were employees
32 of the City of Oak Harbor and acting with in the course and scope of their employment
and authority.
33

1 5.34. As set forth above, Defendants Green and Gardner intentionally sought to
2 embarrass, harass and humiliate Plaintiff.

4 5.35. Because Defendant Green and Defendant Gardner were acting in furtherance
5 of and within the course and scope of their employment, Defendant City of Oak Harbor
6 is liable under the theory of *respondeat superior*.

8 5.36. As a direct and a proximate result of the Defendants' conduct, the Plaintiff has
9 suffered extreme emotional distress and is entitled to recover judgment herein, against
10 the Defendants in an amount to be determined at trial.

VI. REQUEST FOR RELIEF

13 6.1. Damages in an amount to be proven at trial for false arrest, false imprisonment,
14 defamation, intentional infliction of emotional distress and constitutional violations.

16 6.2. For punitive damages, as permitted by federal law, in an amount to be proven
17 at trial for Defendant Green and Defendant Gardner's violation of Plaintiff's constitutional
18 rights.

20 6.3. Attorney's fees and costs incurred by Plaintiff in pursuing this action as allowed
21 by law, contract or equity; and

6.4 For such other and further relief as the court deems just and equitable.

DATED this 10 day of September 2015.



LAW OFFICES OF CHRISTON C. SKINNER, P.S.
By CHRISTON C. SKINNER/ #9515
Attorneys for Plaintiff

EXHIBIT B

OH CITY ATYS OFFICE

SEP 21 2015

RECEIVED

FILED-COPY

SEP 11 2015

DEBRA VANPELT
ISLAND COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF ISLAND

10 JAMES BAILEY,

11 Plaintiff,

13 v.

15 CITY OF OAK HARBOR, a Municipal
16 Entity and Political Subdivision of the
17 State of Washington; EDGAR GREEN
18 and JANE DOE GREEN, husband and
19 wife, individually and in Edgar Green's
20 Official Capacity as Chief of Police; and
21 TERI GARDNER, individually and in her
22 Official Capacity as a Captain in the Oak
23 Harbor Police Department,

24 Defendants.

NO. 15-2-00529-9

AMENDED COMPLAINT FOR
DAMAGES

(FALSE ARREST AND
DEFAMATION)

25 COMES NOW the Plaintiff, James Bailey, and alleges as follows:

27 I. JURISDICTION AND VENUE

29 1.1. At all times material hereto, the actions of the Defendants complained of
30 herein occurred in Island County, Washington.

1.2. This court has jurisdiction over the subject matter of this proceeding and personal jurisdiction over the parties. Venue is proper in Island County since at least one of the Defendants is a resident of Island County, Washington.

1.3. On February 20, 2015, prior to the institution of this action, Plaintiff, James Bailey, filed a claim for damages with the City of Oak Harbor, pursuant to RCW 4.96.020. More than 60 days have elapsed since the filing of Plaintiff's claim as required by RCW 4.96.020. The City of Oak Harbor failed to respond in any manner to the Plaintiff's claim.

II. PARTIES

2.1. At all times material hereto, Plaintiff, James Bailey, was and is a resident of Island County, Washington.

2.2. Defendant, City of Oak Harbor, is a municipal corporation within Island County, Washington.

2.3. Defendant, Edgar Green is an individual who is employed, and at all times material hereto was employed, by the City of Oak Harbor as the Chief of Police. Based on information and belief, Defendant Jane Doe Green is the spouse of Edgar Green. All acts complained of herein were committed by Edgar Green as an individual and as a member of his marital community. Defendants Green are residents of Island County, Washington. All of Edgar Green's actions in this case took place within the course and scope of his duties as the City of Oak Harbor police chief. Defendant Edgar and Jane Doe Green are being sued in their individual capacity and not merely in connection with Edgar Green's employment with Defendant City of Oak Harbor.

2.4. Defendant, Teri Gardner ("Gardner"), is employed, and at all times material hereto was employed, by the City of Oak Harbor as the police captain. Gardner is a resident of Island County, Washington. All of Gardner's actions in this case were in the course and scope of her duties as the City of Oak Harbor police captain. Defendant

1 Gardner is sued in her individual capacity and not merely in connection with Gardner's
 2 employment with Defendant City of Oak Harbor.
 3

4 **III. PERTINENT FACTS**

5 3.1. On or about August 6, 2014, Plaintiff, James Bailey ("Bailey") was driving his
 6 vehicle in Oak Harbor, Washington when he observed another vehicle in the middle of
 7 the roadway. The observed vehicle stopped and started at least three (3) times.
 8

9 3.2. Bailey also observed what appeared to be a physical altercation occurring
 10 between the male and female occupants of the stopped vehicle.
 11

12 3.3. Bailey safely parked his vehicle and approached the driver's side of the
 13 motionless vehicle where he saw the female driver being physically assaulted by the
 14 male passenger, who was then striking her with his hand. Bailey attempted to separate
 15 the two occupants of the vehicle by asking the male passenger to get out of the car.
 16

17 3.4. An individual bystander, two or three houses away from the altercation, later
 18 identified as Christopher Kinkel, asked Bailey if he needed help. Bailey responded by
 19 asking Mr. Kinkel to call "9-1-1."
 20

21 3.5. Mr. Kinkel arrived at Bailey's location and handed Bailey a cellular telephone
 22 which was already connected to the ICOM dispatcher. Bailey informed the ICOM
 23 dispatcher of his name and that he had witnessed a domestic violence altercation and
 24 provided the dispatcher with the license plate number of the involved vehicle.
 25

26 3.6. Officers from the Oak Harbor Police Department ("OHPD") arrived at Bailey's
 27 location shortly after the call and began an investigation of the incident. Bailey
 28 remained at the scene and provided a written statement.
 29

30 3.7. On or about September 10, 2014, at the direction of Defendants Green and
 31 Gardner, Detective Jim Hoagland of the OHPD contacted Bailey in the Oak Harbor
 32 Safeway (now Haggen's) parking lot when Bailey was preparing to go for a daily run.
 33

34 3.8. Detective Hoagland asked to speak with Bailey about the domestic violence
 35 incident and Bailey complied with the Detective's request.
 36

1 3.9. Immediately thereafter, in front of a large number of passers-by, Bailey was
 2 placed in handcuffs by another OHPD officer and was informed he was under arrest.
 3 Bailey was then placed in the back of a police patrol car and treated as a criminal
 4 suspect.

5 3.10. Bailey was advised that he was under arrest for Criminal Impersonation in
 6 the Second Degree, a gross misdemeanor, under RCW 9A.60.045.

7 3.11. At the time of Bailey's arrest, the OHPD had not obtained an arrest warrant
 8 from any court nor did any facts support those exceptions to the arrest warrant
 9 requirement described in RCW 10.31.100.

10 3.12. Bailey was transported to the Oak Harbor police station and placed in the
 11 "breathalyzer room" and was left there for an hour.

12 3.13. When an officer from the OHPD finally attended to Bailey, Bailey requested to
 13 speak with a lawyer. Instead of honoring Bailey's request, Bailey was placed in a
 14 holding cell for another seven hours. Employees of the OHPD made no efforts to place
 15 Bailey in touch with a lawyer despite his detention and clear request for counsel.

16 3.14. In connection with Bailey's arrest, officers from the OHPD impounded his
 17 vehicle even though it was not the same vehicle he was driving at the time Bailey
 18 witnessed the domestic violence incident. Upon searching Bailey's vehicle, police
 19 found a forty year old, Radio Shack, police and fire radio scanner that Bailey uses in
 20 connection with his part time job with Wallin Funeral Home.

21 3.15. While Bailey was still in custody, officers of the OHPD executed a search
 22 warrant on Bailey's person, vehicle and home. During the search, the police ransacked
 23 Bailey's home and removed items such as a barbershop men's chorus uniform that
 24 was a "clown style" police uniform; and a thirty year old "light bar" that a former police
 25 lieutenant and Bailey had used when they participated in parades to represent the
 26 police department's DARE program.

27 3.16. After Bailey's illegal arrest and detention, the Oak Harbor Police Department,
 28 through its police chief, Edgar Green, issued a "press release" describing the City's
 29 version of the August 6, 2014, events and Bailey's involvement. The press release

1 specifically stated that Bailey "identified himself as a retired police officer" and directed
2 an individual to call "9-1-1" because an "officer needed assistance". The press release
3 further stated that James Bailey may have benefitted financially by portraying himself
4 as a police officer for many years and requested "victims" to come forward.

3.17. The story depicted by the OHPD and Edgar Green was broadcast on local
and national media outlets, including the Associated Press and Fox News, subjecting
the Bailey to extreme embarrassment, humiliation and a loss of his reputation.

9 3.18. After the press release was issued, Bailey was contacted by telephone and at
10 his home by several news agencies for comment.

11 3.19. The OHPD's version of the incident, as described in the press release by
12 Edgar Green, was false and misleading subjecting Bailey to extreme embarrassment,
13 humiliation and loss of his reputation.

15 3.20. All actions of the officers of the OHPD described herein were done at the
16 request and with the supervision and direction of Defendant Gardner.

17 3.21. Prior to the incident that gave rise to the Plaintiff's false arrest and
18 imprisonment, Defendant Gardner had been attempting, without success, to acquire
19 evidence of criminal conduct on the part of Bailey similar to that for which he was
20 falsely arrested and accused in August of 2014.
21

21 3.22. Based on the actions and recommendations of the Defendants, the City of
22 Oak Harbor, through the City Attorney's office, issued a criminal citation to Plaintiff
23 James Bailey on September 10, 2014, in City of Oak Harbor Municipal under Court
24 Cause No. C67502. The City of Oak Harbor promptly dismissed the charges on
25 September 16, 2014.
26

27 3.23. No further action has been taken by the Defendants to prosecute this matter.

IV. STATEMENT OF DAMAGES

31 4.1. As a direct and proximate result of the intentional acts of Defendants, Plaintiff
32 was deprived of his Fourth Amendment rights, including deprivation of liberty, and was

1 subjected to pain, suffering, and injury, the nature and extent of which will be
2 established at trial.

3
4 4.2. As a further, direct and proximate result of the intentional acts of Defendants,
5 Plaintiff was required to retain legal counsel and has incurred legal fees and costs to
6 protect his constitutional rights. Plaintiff is entitled to be reimbursed for those costs and
7 fees.

8
9 4.3. As a further, direct and proximate result of the intentional acts of Defendants,
10 Plaintiff was unlawfully forced to endure several hours of imprisonment followed by
11 local, regional and national scrutiny from the media, resulting in substantial legal and
12 societal consequences and impact upon his person and reputation.

13
14 4.4. As a further, direct and proximate result of the intentional acts of Defendants,
15 Plaintiff is entitled to financial compensation for the infringement of his constitutional
16 rights and the personal harm that the Defendants inflicted upon him, and the chilling
17 effect Defendants' actions had on the exercise of Plaintiff's constitutionally protected
18 rights.

20
21 **V. CAUSES OF ACTION**

22 **A. Violation of Civil Rights: 42 USC 1983**

23 5.1. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.

24
25 5.2. As set forth above, on or about September 10, 2014, Defendant Edgar Green
26 and Defendant Teri Gardner, acting under the color of the law, instructed subordinate
27 officers to unlawfully search and seize Plaintiff, without probable cause and without a
28 warrant, all in violation of the Fourth and Fourteenth Amendments to the United States
29 Constitution and by 42 U.S.C. §1983.

1 5.3. At all times material hereto, Defendant Green and Defendant Gardner were
2 employees of the City of Oak Harbor and acting within the course and scope of their
3 employment and authority.

5 5.4. Because Defendant Green and Defendant Gardner were acting in furtherance
6 of and within the course and scope of their employment, Defendant City of Oak Harbor
7 is liable to the Plaintiff for damages under the theory of *respondeat superior*.

9 5.5. As a direct and a proximate result of the Defendants' conduct, the Plaintiff is
10 entitled to recover judgment against the Defendants, jointly and severally, in an
11 amount to be determined at trial.

13 B. **Violation of Washington Constitution Art. 1 § 7**

14 5.6. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.

16 5.7. As set forth above, on or about September 10, 2014, Defendant Green and
17 Defendant Gardner, acting under color of the law, instructed subordinate officers to
18 unlawfully search and seize Plaintiff without probable cause and without a warrant in
19 violation of Plaintiff's right to be free from unreasonable search and seizure as
20 guaranteed by the Washington Constitution Article 1, Section 7.

22 5.8. At all times material hereto, Defendant Green and Defendant Gardner were
23 employees of the City of Oak Harbor and acting within the course and scope of their
24 employment and authority.

26 5.9. Because Defendant Green and Defendant Gardner were acting in furtherance
27 of and within the course and scope of their employment, Defendant City of Oak Harbor
28 is liable under the theory of *respondeat superior*.

30 5.10. As a direct and a proximate result of the Defendants' conduct, the Plaintiff is
31 entitled to recover judgment herein, against the Defendants, jointly and severally, in an
32 amount to be determined at trial.

1 **C. False Arrest**

2 5.11. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.

3
4 5.12. Defendants detained and arrested Plaintiff for an alleged violation of the law
5 that Defendants knew or should have known that the Plaintiff Bailey had not
6 committed.

7
8 5.13. There was no factual or legal basis for the warrantless arrest and
9 imprisonment of Bailey under the facts known to the Oak Harbor Police Department.

10
11 5.14. Defendants' detention, seizure and arrest of Plaintiff without probable cause
12 or warrant, violated Plaintiff's rights under Article 1 of the Washington State
13 Constitution, Section 7.4, and further resulted in the malicious prosecution which
14 followed, and the resulting harm to Plaintiff caused as a result.

15
16 5.15. The conduct of Defendants was willful, malicious, oppressive and/or reckless,
17 and was of such a nature that damages should be imposed in an amount
18 commensurate with the wrongful acts alleged.

19
20 5.16. As a direct and proximate result of the Defendants' actions as alleged in this
21 complaint, Plaintiff has suffered general and special damages in such amounts as may
22 be proven at the time of trial herein and set by the court.

23
24 **D. False Imprisonment**

25 5.17. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.

26
27 5.18. As a result of the false arrest detailed above, Plaintiff was arrested, taken to
28 jail, and detained and imprisoned for hours without cause or justification.

29
30 5.19. Plaintiff was unjustly deprived of his liberty for that period of time and
31 subjected to abuses therein.

1 5.20. As a direct and proximate result of the acts complained of herein, Plaintiff has
2 suffered general and special damages in amounts to be proven at the time of trial
3 herein and to be set by the court.

4

5 **E. Defamation**

6 5.20. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.

7

8 5.21. The statements made by the Defendant and/or on behalf of Defendants by
9 Chief Edgar Green about Plaintiff in the aforementioned press release and in public,
10 were and are false.

11

12 5.22. The Defendants were negligent, reckless, malicious and/or acted intentionally
13 in making these defamatory statements.

14

15 5.23. The statements made by the Defendants were "published" by the Defendants
16 to persons other than the Plaintiff.

17

18 5.24. As a direct and proximate result of the Defendants' actions and conduct, the
19 Plaintiff is entitled to an award of damages against the Defendants, jointly and
20 severally, in amounts to be proven at the time of trial and set by the court.

21

22 **F. Defamation Per Se**

23 5.25. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.

24

25 5.26. The statements made on behalf of Defendant City of Oak Harbor and OHPD,
26 by Chief Edgar Green about Plaintiff were and are false and misleading.

27

28 5.27. The Defendants were negligent, reckless, malicious and/or intentional in
29 making these defamatory statements.

30

31 5.28. The statements made by the Defendants were "published" by the Defendants
32 to persons other than Plaintiff.

1 5.29. The statements made by Defendants exposed Plaintiff to hatred, harassment,
2 contempt, ridicule or obloquy, and deprived him of the benefit of public confidence or
3 social intercourse.

4 5.30. As a direct and a proximate result of the Defendants' conduct, the Plaintiff is
5 entitled to recover judgment against the Defendants, in such amounts as will be
6 proven at the time of trial and to be set by the court.

7 **G. Intentional Infliction of Emotional Distress/Outrage**

8 5.31. Plaintiff re-alleges all preceding paragraphs as though fully set forth herein.

9 5.32. Defendant Green's and Defendant Gardner's conduct towards Plaintiff is
10 extreme and outrageous, going beyond the bounds of common decency.

11 5.33. At all times material hereto, Defendants Green and Gardner were employees
12 of the City of Oak Harbor and acting within the course and scope of their employment
13 and authority.

14 5.34. As set forth above, Defendants Green and Gardner intentionally sought to
15 embarrass, harass and humiliate Plaintiff.

16 5.35. Because Defendant Green and Defendant Gardner were acting in
17 furtherance of and within the course and scope of their employment, Defendant City of
18 Oak Harbor is liable under the theory of *respondeat superior*.

19 5.36. As a direct and proximate result of the Defendants' conduct, the Plaintiff has
20 suffered extreme emotional distress and is entitled to recover judgment herein, against
21 the Defendants in an amount to be determined at trial.

22

23

24

25

1 VI. REQUEST FOR RELIEF
2

3 The Plaintiff requests the entry of judgment against the Defendants, jointly and
4 severally as follows:

5 6.1. For an award of damages in an amount to be proven at trial, for false arrest,
6 false imprisonment, defamation, intentional infliction of emotional distress and
7 constitutional violations.

9 6.2. For an award of punitive damages, as permitted by federal law, in an amount
10 to be proven at trial for Defendant Green and Defendant Gardner's violation of
11 Plaintiff's constitutional rights.

13 6.3. For an award of attorney's fees and costs incurred by Plaintiff in pursuing this
14 action as allowed by law, contract or equity; and

16 6.4. For such other and further relief as the court deems just and equitable.

19 DATED this 11 day of September 2015.

22 LAW OFFICES OF CHRISTON C. SKINNER, P.S.
23
24 By _____
25 CHRISTON C. SKINNER/ #9515
26 Attorneys for Plaintiff
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